

OGC Has Reviewed

9 March 1950

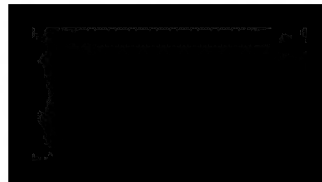
MEMORANDUM TO THE FILES.

SUBJECT: Jefferson v U.S. 178 Fed. 2nd. 518

The U. S. Court of Appeals 5th Circuit has denied recovery under the Tort Claims Act to a member of the Armed Forces who suffered injury through the negligence of an Army Surgeon at Ft. Belvoir, Va. This is the same court that denied recovery in the Brooks case and was later reversed by the Supreme Court. Circuit Judge Parker, who wrote a strong dissent in the Brooks case which was adopted by the Supreme Court, concurred in this decision, and it should be noted that the Supreme Court stated that this case was relevant to the Brooks case "only in its context."

The U. S. 10th Circuit Court of Appeals reached an opposite decision in the Griggs case. If either goes to the Supreme Court, we may have a final determination as to whether this is a "service-connected" disability, and if so whether it comes within the scope of the Tort Claims Act. The language in the Brooks opinion hinted at exclusion, but left sufficient leeway to justify reversal.

The trial judge's opinion (Judge Chestnut) in this case was given strong approval by Judge Dobie in the Brooks case.



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